

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF MISSOURI  
KANSAS CITY DIVISION

AVIDAIR HELICOPTER SUPPLY, INC.,	)	
	)	
Plaintiff,	)	Case No. 4:06-0816-CV-W-ODS
	)	
vs.	)	
	)	
ROLLS-ROYCE CORPORATION,	)	
	)	
Defendant.	)	
_____	)	
	)	
ROLLS-ROYCE CORPORATION,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Indiana Consolidated Case No.
	)	(1:06-cv-1448-LJM-WTL)
AVIDAIR HELICOPTER SUPPLY, INC.,	)	
	)	
Defendant.	)	

**ROLLS-ROYCE CORPORATION'S MOTION  
FOR JUDGMENT AND AWARD OF DAMAGES  
AS TO OIL-24, REVISION 13**

Rolls-Royce Corporation ("Rolls-Royce"), by counsel, respectfully moves the Court to award it damages for AvidAir Helicopter Supply, Inc.'s ("AvidAir") misappropriation of its protected trade secrets, namely, OIL-24, Revision 13. In support of this Motion, Rolls-Royce states:

1) Judge Knox, in his sealed Report Recommending the District Court (1) Grant Rolls-Royce Corporation's Motion for Partial Summary Judgment and (2) Grant in Part and Deny in Part AvidAir Helicopter Supply,

Inc.'s Motion for Partial Summary Judgment (the "Report") (*Docket #164*), concluded that OIL-24, Revision 13 is a valid trade secret entitled to protection and that AvidAir misappropriated Rolls-Royce's trade secret by acquiring and using OIL-24, Revision 13.

2) On June 23, 2009, the Court approved the Report in its entirety, and entered partial summary judgment in favor of Rolls-Royce on Count III of its Amended Complaint as it relates to the misappropriation of OIL-24, Revision 13 (*Docket #195*).

3) On June 23, 2009, the Court also entered a Scheduling Order (*Docket #196*), in which it recognized that it had granted partial summary judgment on Rolls-Royce's Count III relating to OIL-24, Revision 13, "leaving only the issue of damages and other relief" to be decided.

4) The Court having determined, as a matter of law, that OIL-24, Revision 13 is a protectable trade secret and that AvidAir misappropriated Rolls-Royce's trade secret by acquiring and using that technical document, Rolls-Royce is now entitled to damages resulting from AvidAir's misappropriation. Such an award of damages would be predicated on AvidAir's unjust enrichment in the improper use of OIL-24, Revision 13, as allowed under the Indiana Uniform Trade Secret Act. Rolls-Royce's damages expert has concluded that Rolls-Royce's damages suffered under an unjust enrichment measure are \$2,220,087. AvidAir has not challenged Rolls-

Royce's expert or his assessment of damages, and the damage figure in the amount of \$2,220,087 remains undisputed.

5) If the Court concludes that AvidAir engaged in willful or malicious misappropriation of Rolls-Royce's OIL-24, Revision 13, it may also award exemplary damages of up to \$4,440,174.<sup>1</sup>

**WHEREFORE**, Rolls-Royce Corporation, by counsel, moves the Court for a judgment and award of damages as to OIL-24, Revision 13 as follows:

- (A) Enter a partial judgment in favor of Rolls-Royce and against AvidAir Helicopter Supply, Inc. in the amount of \$2,220,987;
- (B) Enter a finding of willful or malicious misappropriation, and thereby enter and award of exemplary damages in the amount of \$4,440,174;
- (C) Enter an award of post-judgment interest calculated at the applicable statutory rate; and
- (D) Grant all other just and proper relief.

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<sup>1</sup> The Court may also award attorneys' fees under the Indiana Uniform Trade Secret Act for willful or malicious misappropriation of trade secrets. Rolls-Royce saves this issue for another day and expressly reserves the right to present a petition for attorneys' fees at the appropriate time.

Respectfully submitted,

s/Alastair J. Warr

Barry L. Pickens, Missouri Atty. No. 43379  
SPENCER FANE BRITT & BROWNE LLP  
1000 Walnut Street, Suite 1400  
Kansas City, MO 64106  
Phone: (816) 292-8203  
FAX: (816) 474-3216

Max W. Hittle, Jr., Atty. No. 7551-49  
Alastair J. Warr, Atty. No. 15873-49  
Libby Y. Mote, Atty. No. 20880-49A  
Jason A. Houdek, Atty. No. 23009-49  
Rebecca Biller Elmore, Atty. No. 24867-49  
Matthew C. Branich, Atty. No. 25496-49  
KRIEG DeVAULT LLP  
One Indiana Square, Suite 2800  
Indianapolis, IN 46204-2079  
Phone: (317) 636-4341  
FAX: (317) 636-1507

Attorneys for Rolls-Royce Corporation

### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was, on June 23, 2009, filed electronically using the Court's Electronic Case Filing System. Notice of this filing will be sent electronically to the following using the Court's electronic notification system. Parties may access this filing through the Court's Electronic Case Filing System.

Edward A. McConwell, Esq.  
5925 Beverly  
Mission, Kansas 66202  
ed@mcconwell.com

s/Alastair J. Warr  
Counsel for Rolls-Royce Corporation